

DECISION



THE COMPTROLLER GENERAL
OF THE UNITED STATES
WASHINGTON, D.C. 20548

FILE: B-209217

DATE: November 16, 1982

MATTER OF: Eric J. Ransick

DIGEST: The claim of a transferred employee for reimbursement of a non-refundable rent deposit on an apartment at his new duty station may not be authorized as a miscellaneous relocation expense since, as a holding fee, it is a payment in execution of a lease for which reimbursement is not allowed under the applicable regulations.

This action is in response to the request of an authorized certifying officer of the Internal Revenue Service, Southwest Region, for an advance decision as to whether an employee's claim for a non-refundable rent deposit may be paid as a miscellaneous relocation expense. We conclude that the claim is not payable because the deposit, paid for the purpose of reserving new permanent quarters, was in the nature of a rental payment, for which the regulations do not authorize reimbursement.

The employee, Mr. Eric J. Ransick, was authorized relocation expenses in connection with a permanent change of station from Little Rock, Arkansas, to Grand Junction, Colorado, effective April 1, 1982. He claims as a miscellaneous expense a non-refundable payment of \$385, the amount of 1 month's rent, which he paid for the month of March 1982, to retain an apartment for his occupancy that commenced on April 1, 1982.

Mr. Ransick explains that the payment was required by his agreement with a property rental agent in order to secure and hold an apartment for his use at a time when the vacancy rate for rental units in Grand Junction was less than one-half of 1 percent per year. He contends that he is entitled to reimbursement since no provision in the agency's travel regulations specifically disallows this expense. He maintains the payment was not rent but a non-refundable deposit since it covered a period during which the apartment was being prepared for occupancy. He further states that

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he should be reimbursed since he acted in the best interests of the Government because the expenditure rendered unnecessary his incurrence of temporary quarters and storage expenses.

Payment of certain relocation expenses incurred by an employee as a result of a permanent change of station is authorized by 5 U.S.C. 5724a, which is implemented by Chapter 2 of the Federal Travel Regulations (FTR) (FPMR 101-7, September 1981). An allowance for miscellaneous expenses is authorized to cover various contingent costs associated with establishing a permanent residence at a new duty station in connection with a permanent change of station. FTR paragraph 2-3.1a. However, the miscellaneous expense allowance cannot be used to reimburse an employee for expenses which are disallowed under other provisions of the regulations. FTR paragraph 2-3.1c.

Regardless of whether a payment made in connection with the negotiation of a leasing agreement is considered a rental deposit or a rent payment in advance of occupancy, it constitutes a payment in execution of a lease, which is in the nature of rent. B-171808, March 31, 1971. The allowances for expenses incurred in connection with residence transactions are provided in FTR Chapter 2, Part 6. While the regulations provide for reimbursing an employee for settlement of an unexpired lease at the old station, they make no provision for payment of expenses on a lease at the new station. Concerning leasing agreements involving pre-occupancy rent payments or reservation fees, we have held that reimbursement is not authorized for expenses attributable to the execution of a lease of permanent quarters at a new duty station. Matter of Noller, B-204939, April 5, 1982, and B-171808, cited above.

Accordingly, Mr. Ransick's payment of a non-refundable lease deposit may not be reimbursed as a miscellaneous relocation expense.

Milton J. Fowler
for Comptroller General
of the United States